

1 SB295  
2 127920-3  
3 By Senators Dunn, Marsh, Waggoner, Blackwell, Ross, Singleton,  
4 Beasley, Irons, Smitherman, Orr, Brewbaker, Fielding, Bedford,  
5 Keahey, Figures, Reed, Coleman, Sanders, Smith, Allen, Dial,  
6 Whatley and Ward  
7 RFD: Children, Youth Affairs, and Human Resources  
8 First Read: 29-MAR-11

1 SB295

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4 ENROLLED, An Act,

5 To establish the Individual Development Account  
6 Program in the Department of Human Resources; to authorize  
7 certain persons with low income to enter into agreements  
8 developed with a fiduciary organization for the establishment  
9 of an individual development account; to require the agreement  
10 to provide for the amount of savings deposits, match fund  
11 rates, asset goals and financial literacy education classes to  
12 be completed, additional training specific to the asset, and  
13 financial counseling the individual will attend, as well as  
14 other services designed to increase the financial independence  
15 of the person; to provide that the funds in the account shall  
16 be matched under certain circumstances; to provide that money  
17 may be withdrawn from the account for certain qualified  
18 purposes; to allow money to be withdrawn from the account if  
19 money is withdrawn for emergencies; to remove a person from  
20 the program if money is withdrawn for other purposes; to  
21 require the account holder to fulfill certain requirements  
22 before the withdrawal of money from the account; to provide  
23 that money deposited in the account shall not be considered  
24 gross income for income tax purposes; to provide that money  
25 withdrawn from the account for qualified purposes shall not be

1 considered gross income for income tax purposes; to provide  
2 for the selection of fiduciary organizations to administer the  
3 program; to provide for the duties of financial institutions  
4 holding individual development accounts; to provide that an  
5 account owner's savings and matching funds shall not affect  
6 his or her eligibility for any means-tested public benefits;  
7 and for related purposes.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. As used in this act, the following terms  
10 shall have the following meanings:

11 (1) DEPARTMENT. The Department of Human Resources.

12 (2) ELIGIBLE INDIVIDUAL or FAMILY MEMBER. A person  
13 whose household income is equal to or less than 80 percent of  
14 the median household income for the state or less than 200  
15 percent of the federal poverty guidelines, whichever is  
16 greater.

17 (3) EMERGENCY. Payments for necessary medical  
18 expenses of the account owner or family member, expenses to  
19 avoid the eviction of the account owner from the account  
20 owner's primary residence, and for necessary living expenses  
21 following a loss of income

22 (4) FIDUCIARY ORGANIZATION. Any nonprofit,  
23 fund-raising organization that is exempt from taxation under  
24 Section 501(c) (3) of the Internal Revenue Code, as amended;  
25 any certified community development financial institution; any

1 credit union chartered under federal or state law; or any  
2 Indian tribe as defined in Section 4(12) of the Native  
3 American Housing Assistance and Self-Determination Act of 1996  
4 (25 U.S.C §4103(12)), and includes any trial subsidiary,  
5 subdivision, or wholly owned tribal entity.

6 (5) FINANCIAL INSTITUTION. A federally insured bank,  
7 trust company, savings bank, building and loan association,  
8 savings and loan company or association, or credit union  
9 authorized to do business in this state.

10 (6) INDIVIDUAL DEVELOPMENT ACCOUNT. An account  
11 established for an eligible individual or family member as  
12 part of a qualified individual development account program  
13 with the following requirements:

14 a. The sole owner of the account is the individual  
15 or family member for whom the account was created.

16 b. The holder of the account is a qualified  
17 financial institution.

18 c. The assets of the account may not be commingled  
19 with other property except in a common trust fund or common  
20 investment fund.

21 d. Any amount in the account shall be paid out only  
22 for the qualified purposes of the account owner, except if it  
23 meets the qualifications of an emergency use.

24 (7) PARALLEL ACCOUNT. A separate parallel account  
25 for all matching funds and earnings dedicated to individual

1 development account owners, the sole holder of which is a  
2 qualified financial institution, a qualified fiduciary  
3 organization, or an Indian tribe.

4 (8) QUALIFIED PURPOSES. The use of the account  
5 owner's accumulated savings and matching funds for any of the  
6 following purposes:

7 a. Securing postsecondary education, including, but  
8 not limited to, community college courses, courses at a  
9 four-year college or university, or postcollege, graduate  
10 courses for the account owner or any member of the account  
11 owner's family.

12 b. Securing postsecondary occupational training,  
13 including, but not limited to, vocational or trade school  
14 training for the account owner or any training authorized  
15 under the Workforce Investment Act through the Department of  
16 Economic and Community Affairs.

17 c. Purchasing a home for the first time, defined as  
18 not being named on a legally registered home ownership title  
19 for a minimum of 36 months.

20 d. Costs for major repairs or improvement to a  
21 primary residence.

22 e. Business capitalization.

23 f. Purchasing of an automobile necessary to  
24 transport the account owner or family member to a place of  
25 employment or education.

1           g. Assistive technology for people with  
2 disabilities.

3           h. Any other activity based on a plan approved by  
4 the department.

5           Section 2. A person who is eligible to become an  
6 individual development account owner may enter into an  
7 agreement developed with a fiduciary organization for the  
8 establishment of an individual development account. The  
9 agreement shall provide for the amount of the savings  
10 deposits, the match fund rate, the asset goal, and the  
11 financial literacy classes to be completed, any additional  
12 training specific to the asset, and financial counseling the  
13 individual will attend, as well as other services designed to  
14 increase the independence of the person through the  
15 achievement of the account's approved purpose.

16           Section 3. Once the account owner has saved for a  
17 minimum of six months, has reached his or her savings goal,  
18 and has fulfilled all financial literacy education components  
19 in accordance with federal guidelines, the appropriate  
20 matching funds shall be transferred from the parallel account  
21 directly to the vendor or service provider of the approved  
22 asset.

23           Section 4. (a) If an emergency occurs, an account  
24 owner may withdraw all or part of the account owner's deposits

1 to an individual development account with the approval of the  
2 fiduciary organization.

3 (b) The account owner shall reimburse his or her  
4 individual development account for the amount withdrawn under  
5 this section within 12 months after the date of the  
6 withdrawal. Failure of the account owner to make a timely  
7 reimbursement to the account will remove the account owner  
8 from the Individual Development Account Program. Until the  
9 reimbursement has been made in full, an account owner may not  
10 withdraw any matching funds or accrued interest on matching  
11 funds from the account.

12 (c) If an account owner withdraws money from an  
13 individual development account for other than a qualified  
14 purpose, the fiduciary organization shall remove the account  
15 owner from the program.

16 Section 5. Before becoming eligible to receive  
17 matching funds to pay for qualified purposes, individual  
18 development account owners shall complete a financial literacy  
19 education course offered by a qualified financial institution,  
20 a qualified fiduciary organization, an Indian tribe, or a  
21 governmental entity in accordance with federal guidelines.

22 Section 6. (a) Deposits to individual development  
23 accounts made by the account owner shall come from earned  
24 income, including, but not limited to, wages, earned income  
25 tax credit returns, child support payments, supplemental

1 security income (SSI), disability benefits, community service  
2 under TANF, AmeriCorps stipends, VISTA stipends, and job  
3 training programs.

4 (b) Eligible individuals shall certify that their  
5 deposits do not exceed their income. A cap on deposits made by  
6 the account owner is set at two thousand dollars (\$2,000).

7 Section 7. Money deposited into individual  
8 development accounts shall not be included in gross income for  
9 income tax purposes. Any amount withdrawn from a parallel  
10 account, matching funds, may not be includable in an eligible  
11 individual's gross income. Money withdrawn from an individual  
12 development account shall only be included in gross income if  
13 used for a purpose other than a qualified purpose.

14 Section 8. The department shall select fiduciary  
15 organizations through competitive processes. In making the  
16 selections, the department may consider factors including, but  
17 not limited to, the following:

18 (1) The ability of the fiduciary organization to  
19 implement and administer the individual development account  
20 program, including the ability to verify account owner  
21 eligibility, certify that matching funds are used only for  
22 qualified purposes, and exercise general fiscal  
23 accountability.



1           (2) The capacity of the fiduciary organization to  
2 provide or raise matching funds for the deposits of account  
3 owners.

4           (3) The capacity of the fiduciary organization to  
5 provide, or to arrange for the provisions of, financial  
6 counseling, financial literacy education and training specific  
7 to the assets the account owners will be purchasing, and other  
8 related services to account owners.

9           (4) The links the fiduciary organization has to  
10 other activities and programs designed to increase the  
11 independence of this state's low-income households and  
12 individuals through education and training, home ownership,  
13 small business capitalization, and other asset-building  
14 programs.

15           (5) The feasibility of the fiduciary organization's  
16 program design, including match rates and savings goals, to  
17 lead to asset purchase.

18           Section 9. (a) Subject to rules promulgated by the  
19 department, a fiduciary organization has sole authority over,  
20 and responsibility for, the administration of individual  
21 development accounts. The responsibility of the fiduciary  
22 organization extends to all aspects of the account program,  
23 including marketing to all eligible individuals and families,  
24 soliciting matching funds, counseling account owners,  
25 providing financial literacy education, and conducting

1 required verification and compliance activities. The fiduciary  
2 organization may establish program provisions as the  
3 organization believes necessary to ensure account owner  
4 compliance with this act.

5 (b) A fiduciary organization may act in partnership  
6 with other entities, including businesses, government  
7 agencies, corporations, nonprofit organizations, community  
8 action programs, community development corporations, housing  
9 authorities and faith-based entities, to assist in the  
10 fulfillment of its responsibilities under this act.

11 (c) A fiduciary organization may use a reasonable  
12 portion of money allocated by the Legislature to the  
13 Individual Development Account Program for administration,  
14 operation and research, and evaluation purposes. A fiduciary  
15 organization may not expend more than 15 percent of allocated  
16 funds for those purposes.

17 (d) A fiduciary organization selected by the  
18 department to administer funds allocated by the State of  
19 Alabama for Individual Development Account purposes shall  
20 provide the department an annual report based on regularly  
21 collected data of the fiduciary organization's Individual  
22 Development Account Program activity. The report shall be  
23 filed not later than 90 days after the end of the fiscal year.  
24 The report shall include, but is not limited to, the  
25 following:

1           (1) The number of individual development accounts  
2 administered by the fiduciary organization.

3           (2) The amount of deposits and matching funds for  
4 each account.

5           (3) The asset purchase goal of each account.

6           (4) The number of withdrawals made.

7           (5) Any other information the department may require  
8 for the purpose of determining whether the Individual  
9 Development Account Program is achieving the purposes for  
10 which it was established.

11           (e) The department shall make all reasonable and  
12 necessary rules to ensure the fiduciary organization's  
13 compliance with this act.

14           (f) Financial institutions holding individual  
15 development accounts, at a minimum, shall:

16           (1) Keep the account in the name of the account  
17 owner.

18           (2) Permit deposits to be made in the account.

19           (3) Require the account to earn a market rate of  
20 interest.

21           (4) Maintain the individual development accounts as  
22 fee free.

23           (5) Permit the account owner, after obtaining the  
24 written authorization of the fiduciary organization, to  
25 withdraw money from the account for any qualified purpose.

1           Section 10. (a) An account owner's savings and  
2 matching funds shall not affect his or her eligibility for any  
3 means-tested public benefits, including, but not limited to,  
4 Medicaid, state children's health insurance programs, TANF,  
5 Supplemental Nutrition Assistance Program, supplemental  
6 security income, or government-subsidized foster care and  
7 adoption payments, and child care or housing payments.

8           (b) Funds deposited in individual development  
9 accounts shall not be counted as income, assets, or resources  
10 of the account owner for the purpose of determining financial  
11 eligibility for assistance or service pursuant to any federal,  
12 federally assisted, state, or municipal program based on need.

13           Section 11. The Department of Human Resources shall  
14 not be obligated to fund individual development parallel  
15 accounts or be obligated to enter into contracts with  
16 fiduciary organizations unless the Legislature appropriates  
17 funding to the department for the establishment of an  
18 Individual Development Account Program, nor shall the  
19 department be obligated to spend funds on an Individual  
20 Development Account Program above the amount appropriated by  
21 the Legislature for such a program.

22           Section 12. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB295

Senate 05-MAY-11

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 01-JUN-11

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By: Senator Dunn